

OWC 69-0407

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OGC 69-0888

13 May 1969

MEMORANDUM FOR THE RECORD

SUBJECT: Protection of Information

1. 50 U.S.C. 783 makes it unlawful for anyone to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship under the domain of any foreign government, organization, or individual.

2. Section 783(b) makes it unlawful for any officer or employee of the United States to communicate to any other person, who such officer knows or has reason to believe is the agent or representative of any foreign government or an officer or member of any Communist organization, any information which has been classified by the head of a department or agency as affecting the security of the United States, knowing or having reason to know that such information has been classified unless specifically authorized by the head of the department or agency.

3. Section 783(b) was effectively used to prosecute Mr. Scarbeck, a Foreign Service Officer, who was blackmailed by the Polish Security Forces into giving classified information. It has great advantages over the Espionage Act in that it does not require proof of intent to harm the United States or aid a foreign power nor does it require revealing to the jury the information involved for the jury's determination whether it relates to the national defense. It is sufficient that the information be classified and that the individual knew it. The court will not review the validity of the classification.

4. It would give greater protection to classified information to broaden section 783(b) so it would apply not only to officers or employees, but also to former officers and employees, and

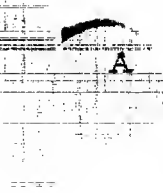
bar not only communication, but also an attempt to communicate classified information. Further protection would come from broadening the category of persons to whom the information is given to include any person not authorized by the President or the head of the department or agency concerned to receive such classified information. The text of an amendment which would achieve these aims is attached as Tab A, and the complete text of present section 763(b) is attached as Tab B.

5. If enacted, the amendment would be a most useful tool in controlling the misuse of classified information by employees and former employees. The wording of the proposed amendment has been reviewed by Mr. J. Walter Yeagley, Assistant Attorney General, Internal Security Division, Department of Justice. It has also been made available to Mr. Samuel J. Papich for the Federal Bureau of Investigation.

Attachments

Distribution:

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1-Samuel J. Papich, FBI



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